



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0318; FRL-10004-02-R9]

Air Plan Approval; California; San Diego County Air Pollution Control District; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the San Diego County Air Pollution Control District (SDCAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOC) from architectural coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: These rules is effective [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2021-0318. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the

FOR FURTHER INFORMATION CONTACT section.

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SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our”

refer to the EPA.

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I. Proposed Action

On September 19, 2022 (87 FR 57161), the EPA proposed to approve the following amended rules into the California SIP.

Local Agency	Rule #	Rule Title	Adopted/Amended/Revised	Submitted
SDCAPCD	67.0.1	Architectural Coatings	2/10/2021 (effective for state law purposes on 1/1/2022)	4/20/2021, as an attachment to a letter dated 4/16/2021
SJVUAPCD	4601	Architectural Coatings	4/16/2020 (effective upon adoption but the new or revised VOC content limits were effective 1/1/2022)	4/23/2020, as an attachment to a letter of the same date

We proposed to approve these amended rules because we determined that they comply with the relevant CAA requirements. More specifically, we evaluated the amended rules and determined that they remain enforceable, that they implement reasonably available control measure (RACM)-level controls, and that they would not interfere with any applicable requirement concerning attainment or reasonable further progress (RFP) or any other requirement of the CAA. In our proposed rule, we also evaluated the specific contingency measure provisions in the rules (*i.e.*, paragraph (b)(6) of SDCAPCD Rule 67.0.1 and section 4.3

of SJVUAPCD Rule 4601) and concluded that the provisions meet the requirements for contingency measures under CAA sections 172(c)(9) and 182(c)(9). While we found that the rules meet the requirements for stand-alone contingency measures, we indicated that we are not making any determination at this time as to whether these individual contingency measures are sufficient in themselves for their respective nonattainment areas to fully comply with the contingency measure requirements under CAA sections 172(c)(9) and 182(c)(9). As noted in the proposed rule, we will be taking action on the contingency measure SIP elements for San Diego County and San Joaquin Valley in separate rulemakings. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one germane comment, and that one comment was supportive of the proposed action.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the CAA, the EPA is fully approving these rules into the California SIP. Upon the effective date of this final rule, the February 10, 2021 version of SDCAPCD Rule 67.0.1 and the April 16, 2020 version of SJVUAPCD Rule 4601 will replace the previously approved versions of these rules in the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SDCAPCD and SJVUAPCD rules identified in section I. of this preamble. These rules concern emissions of VOC from architectural coating operations. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA

Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- The state did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the ***Federal Register***. A major rule cannot take effect until 60 days after it is published in the ***Federal Register***. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping
requirements, Volatile organic compounds.

Dated: **December 14, 2022.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraphs (c)(379)(i)(C)(9), (c)(472)(i)(C)(2), and (c)(565)(i)(A)(3), reserved paragraph (c)(591), and paragraph (c)(592) to read as follows:

§ 52.220 Identification of plan - in part.

*	*	*	*	*
(c)	*	*	*	
(379)	*	*	*	
(i)	*	*	*	
(C)	*	*	*	

(9) Previously approved on November 8, 2011, in paragraph (c)(379)(i)(C)(6) of this section and now deleted with replacement in paragraph (c)(592)(i)(A)(1) of this section, Rule 4601, “Architectural Coatings,” amended on December 17, 2009.

*	*	*	*	*
(472)	*	*	*	
(i)	*	*	*	
(C)	*	*	*	

(2) Previously approved on October 4, 2016, in paragraph (c)(472)(i)(C)(1) of this section and now deleted with replacement in paragraph (c)(565)(i)(A)(3) of this section, Rule 67.0.1, “Architectural Coatings,” adopted on June 24, 2015.

*	*	*	*	*
(565)	*	*	*	
(i)	*	*	*	

(A) * * *

(3) Rule 67.0.1, “Architectural Coatings,” rev. adopted on February 10, 2021.

* * * * *

(591) [Reserved]

(592) The following regulation was submitted on April 23, 2020, by the Governor’s designee, as an attachment to a letter dated April 23, 2020.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(I) Rule 4601, “Architectural Coatings,” amended on April 16, 2020.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

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[FR Doc. 2022-27723 Filed: 12/21/2022 8:45 am; Publication Date: 12/22/2022]